
**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA : **CRIMINAL COMPLAINT**

v. :

JOHN J. MERLA and : Mag. No. 05-
ROBERT L. HYER :

I, the undersigned complainant, being duly sworn, state that the following is true and correct to the best of my knowledge and belief. From in or about March 2003 through in or about November 2004, in Monmouth County, in the District of New Jersey, and elsewhere, defendants JOHN J. MERLA and ROBERT L. HYER did:

knowingly and willfully conspire with each other and with others to obstruct, delay, and affect interstate commerce by extortion under color of official right, by soliciting and accepting corrupt payments that were paid by another, with his consent

in violation of Title 18, United States Code, Section 1951(a).

I further state that I am a Special Agent with the Federal Bureau of Investigation, and that this complaint is based on the following facts:

SEE ATTACHMENT A

continued on the attached page and made a part hereof.

Mark P. Calnan, Special Agent
Federal Bureau of Investigation

Sworn to before me and subscribed in my presence,

February 18, 2005, at Newark, New Jersey

HONORABLE SUSAN D. WIGENTON
UNITED STATES MAGISTRATE JUDGE

Signature of Judicial Officer

Attachment A

I, Mark P. Calnan, a Special Agent with the Federal Bureau of Investigation ("FBI"), following an investigation and discussions with other law enforcement officers, am aware of the following facts. Because this Attachment A is submitted for the limited purpose of establishing probable cause, I have not included herein the details of every aspect of this investigation. Nor have I recounted every conversation involving the defendants.

1. Defendant JOHN J. MERLA is the Mayor of the Township of Keyport, New Jersey and has held that position at all times relevant to this Complaint. Defendant ROBERT L. HYER was a Councilman in Keyport and held that position at all times relevant to this Complaint.

2. At all times relevant to this Complaint, a cooperating witness ("CW") held himself out as someone involved in construction work and illegal loansharking. As represented by CW, his construction operation was located primarily in the State of Florida, with his construction equipment being maintained in Florida and Alabama.

3. In or about March 2003, defendant JOHN J. MERLA invited CW to a party to celebrate defendant MERLA being elected Mayor of Keyport. CW was introduced to defendant ROBERT L. HYER at the party.

4. On or about June 13, 2003, CW and defendant ROBERT L. HYER had dinner. In a conversation that was recorded with the consent of CW, they discussed, in substance and in part, defendant HYER obtaining \$5,000 from CW in return for defendant HYER securing for CW's company public construction contracts in Keyport. Specifically, CW stated that he would "throw [defendant HYER] five up front" in return for future consideration for "demolition, emergency work." Defendant HYER agreed, stating, "We'll do whatever you want," while cautioning CW that "this shit don't happen overnight though." CW warned defendant HYER, "It's gotta be between me and you." Defendant HYER responded, "You know I don't say anything." He assured CW, "I know the game."

5. On or about June 18, 2003, outside of a restaurant in Neptune, New Jersey, defendant ROBERT L. HYER accepted \$5,000 cash from CW in return for defendant HYER agreeing to steer future municipal work to CW. The conversation was consensually recorded and was observed by law enforcement officers. CW promised defendant HYER, "Whatever we do from here on in, a piece comes back to you." CW explained, "You got one job? Now you got two jobs. This one is the secret one. And whatever we do, you get a piece no matter what." Defendant HYER responded, "All right." They also discussed, in substance and in part, other public officials who might award contracts to CW in return for a

pay-off. In subsequent conversations, defendant HYER and CW discussed specific municipal projects that defendant HYER could secure for CW.

6. On or about August 19, 2003, CW and defendant JOHN J. MERLA had a discussion at a diner in Keyport. They discussed, in substance and in part, defendant MERLA obtaining payment from CW for the costs of an upcoming picnic fundraiser for defendant MERLA in exchange for CW receiving from defendant MERLA public work in Keyport. As CW explained, "I wanna get some work . . . and I gotta show my appreciation because I know you'll look out for me down the road." Defendant MERLA responded, "Okay." Later that same day, CW had a telephone conversation with defendant ROBERT L. HYER during which defendant HYER counseled CW on making a payment to defendant MERLA. Defendant HYER expressed concern, in substance and in part, about the fact that "John owes so many people." CW explained that he told defendant MERLA, "I'm expecting work in return" for the money. Both of these August 19 conversations were recorded with the consent of CW.

7. On or about September 8, 2003, defendant ROBERT L. HYER, defendant JOHN J. MERLA, and CW met for dinner. They discussed, in substance and in part, defendant MERLA obtaining payments for the costs of the picnic fundraiser from CW, in exchange for defendant MERLA authorizing public work for CW in Keyport. This conversation was recorded with CW's consent.

8. On or about September 11, 2003, at a restaurant in Keyport, defendant JOHN J. MERLA obtained \$9,000 in cash from CW. CW explained to defendant MERLA that "there's seven grand here for the picnic and two for you. Go put two thousand down on the, on the [Dodge] Durango and get it in and we'll talk about the rest." When defendant MERLA asked CW if he wanted a receipt of some kind for the payment, CW stated, in substance and in part, "All's I need is your word for work. That's all I need." Defendant MERLA responded, "We got work." Defendant MERLA also told CW that defendant HYER will "be our point guy" for future work in Keyport to be awarded to CW. This meeting was recorded with audio and video recording devices with CW's consent.

9. Later that same day, defendant ROBERT L. HYER accepted \$1,000 in cash from CW for defendant HYER's assistance with the pay-off made to defendant JOHN J. MERLA. In their consensually recorded conversation, defendant HYER and CW spoke about specific public jobs that defendants HYER and MERLA could secure for CW. CW also told defendant HYER that "the first decent job that you get me, I'm taking care of the windows [in defendant HYER's house], so get the estimate." CW again made clear to defendant HYER that he expected public contracts in exchange for his payments, explaining, "I ain't running a charity."

10. From approximately December 2003 through February 2004, CW was awarded contracts to perform, and did perform, two jobs for the Township of Keyport, including a bulkhead removal project

and chipping trees in the Township. After learning that CW would be awarded the bulkhead project, on December 7, 2003, defendant JOHN J. MERLA obtained \$2,500 in cash from CW as compensation for defendant MERLA's role in steering the bulkhead project to CW. This meeting was recorded with audio and video recording devices with CW's consent.

11. Defendant JOHN J. MERLA obtained additional cash payments from CW for public work on January 12, 2004 and November 23, 2004. Defendant ROBERT L. HYER accepted additional cash payments from CW on November 19, 2003, March 21, 2004, May 19, 2004, and June 5, 2004, either for public work or for introducing CW to other public officials who would steer work to CW in exchange for cash payments. Also, on November 17, 2004, defendant HYER obtained a similar cash payment from a law enforcement officer acting in an undercover capacity as CW's employee. All of these conversations were consensually recorded.